

Chichester District Council

CABINET

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Adoption of the Community Infrastructure Levy Charging Schedule

1. Contacts

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2. Executive Summary

Chichester District Council has prepared a CIL Charging Schedule that takes into account the economic viability of development in the area covered by the Local Plan and the infrastructure needed to support development. The draft Charging Schedule has been subject to two rounds of formal public consultation and an examination undertaken by an independent examiner.

Subject to one modification required to meet statutory requirements, and a further minor modification for the Council to consider, the Examiner recommends that the Charging Schedule be approved as it satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended)

3. Recommendation

3.1. That the Council be recommended to:

- (i) Adopt the Community Infrastructure Levy Charging Schedule to take effect from 1 February 2016 (attached as Appendix 2), incorporating modification EM1 (revised Charging Schedule map showing grid reference numbers) and further minor amendment (deleting B1, B2 and B8 uses so they are captured in the Standard nil charge)**
- (ii) Adopt the CIL Regulation 123 list (attached as Appendix 3)**
- (iii) Adopt the CIL Payment by Instalments Policy (attached as Appendix 4).**

4. Background

- 4.1. The Government has decided that the CIL is the fairest way for new development to help fund the cost of infrastructure resulting from the cumulative impact of development of the area.

- 4.2. Although the implementation of the CIL is at the discretion of local authorities, the changes in legislation which have scaled back the use of S106 obligations means that the CIL is the best means of funding most of the infrastructure necessary to support the development identified in the Local Plan.
- 4.3. In setting the rates, legislation requires the Council to strike an appropriate balance between the desirability of funding infrastructure to support development and the potential effects of imposing a charge on the economic viability of development as a whole. To determine this balance the Council employed consultants to undertake an economic viability study of potential housing and commercial developments within the Chichester local plan area and how much CIL they could bear without threatening development viability.
- 4.4. The Council published its Preliminary Draft Charging Schedule (PDCS) in March 2014. In response to comments received during that consultation, and significant changes in guidance and legislation, the Council updated the Viability Appraisal and published further evidence. This work supported the Draft Charging Schedule (DCS) which was published for consultation in November 2014. The level of the charge proposed by the Council was based on the needs identified in the Infrastructure Delivery Plan and scenario testing to ensure that it would not affect the overall viability of development. The DCS recommended the following rates:

Use of Development	Proposed levy (£per square metre)
*Residential – South of National Park	£120
*Residential – North of National Park	£200
Business (B1b, B1c, B2, B8)	£0
Retail – wholly or mainly convenience	£125
Retail – wholly or mainly comparison	£20
Purpose Built Student Housing	£30
Standard Charge (applies to all development not separately defined)	£0

*With the exception of residential institutions (C2)

- 4.5. The Draft Charging Schedule, together with the consultation comments and all accompanying evidence were submitted to the Planning Inspectorate on 12 March 2015. The Examination Hearing was held on 9 June 2015.
- 4.6. The Examiner's role was to consider whether the Council's proposed charging schedule met the requirements of the Planning Act 2008 and associated regulations. He also needed to be satisfied that the proposed rates were consistent with available viability evidence and would not threaten the delivery of planned development in the Local Plan area.
- 4.7. After raising a number of separate post hearing questions, which the Council replied to and which were subject to consultation by interested parties, the Examiner issued his report to the Council on 23 November 2015 (attached as Appendix 1). His report concludes that one modification needs to be made, and a further modification is suggested at the discretion of the Council.
- 4.8. The Examiner's report concludes that the Chichester Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of

the levy in Chichester district outside the South Downs National Park. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

One modification is needed to meet the statutory requirements, as follows:

- **EM1** – Map 1.1 of the charging schedule to be amended to include Ordnance Survey national grid reference numbers as shown in document CDC-CIL-ED-1-2.
- 4.9. The Examiner's report says that it would improve the clarity of the DCS if either B1a is included in the Business category or the Business category is deleted entirely allowing B1, B2 and B8 uses to be captured in the Standard nil charge. This clarification would not be necessary for the Charging Schedule to be approved and therefore should be regarded as a minor modification for the Council to consider. As such, officers recommend that the B uses are deleted so they are captured in the zero charge.
- 4.10. The Examiner also encourages the Council to review and clarify the wording of the draft Regulation 123 list to help ensure that there is no perceived 'double dipping'. Officers have revisited the Regulation 123 list and have clarified the wording in respect to a section of the Oving cycle path to clarify which section will be provided through S106. This change is highlighted in Appendix 3.
- 4.11. Finally, the Examiner states that it will be important for the Council to keep the **charging schedule under review and that it would be prudent for the Council to review the schedule within 3 years of adoption to ensure that the overall approaches taken remain valid, that development remains viable and that an appropriate balance is being struck.** The Examiner adds that it would help to provide clarity and certainty if the Council were to specify a timescale for review at the time the Charging Schedule is adopted. Unless the CIL monitoring indicates otherwise, officers will review the CIL alongside the review of the Local Plan.
- 4.12. The CIL regulations allow for some matters to be determined by the Council e.g an exceptional circumstance policy, and a payment by instalments policy The Charging Schedule sets out the Council's intentions on these issues. In summary, whilst the Council does not intend to adopt an Exceptional Circumstances policy initially, it is proposed that the Council:
- Adopts a payment by instalments policy to provide greater flexibility and assist viability – this will ensure that payments are scheduled in proportion to the scale of development (see Appendix 4);
 - Allows for payment 'in-kind' of land and/or infrastructure in satisfaction of the whole or part of the CIL due in respect of a chargeable development
 - Uses up to 5% of CIL funds to administer the CIL, which includes the ongoing maintenance of the Exacom IT software to manage and monitor the CIL, and some of the staffing costs for those officers involved with the administration and spending of the CIL.

5. Outcomes to be achieved

- 5.1. The adoption of this CIL Charging Schedule will ensure that the Council can continue to secure funding for infrastructure to support development in the Local Plan area as identified in the Infrastructure Delivery Plan and draft Infrastructure Business Plan.

6. Proposal

- 6.1. The main purpose of this report is to recommend adoption of the Community Infrastructure Levy (CIL) Charging Schedule (with modifications); CIL Regulation 123 list; and CIL Payment by Instalments Policy on 26 January, to take effect from 1 February 2016.

7. Alternatives that have been considered

- 7.1. The Council could choose not to adopt the Community Infrastructure Levy Charging Schedule, and rely on providing infrastructure through Section 106 funding only. This is not recommended because the use of Section 106 obligations has been scaled back, and a restriction has been placed on the pooling of S106 obligations allowing for no more than five obligations per project (this does not apply in respect of affordable housing).
- 7.2. Because Section 106 agreements are only designed to mitigate the impacts of individual planning applications, there would be insufficient infrastructure provided through this route to accommodate the cumulative growth of the area, which would be likely to lead to a significant infrastructure deficit.

8. Resource and legal implications

- 8.1. The CIL Regulations allow the collection authority to use up to 5% of the CIL for administration purposes as indicated in paragraph 4.12 above. This would include the maintenance of the specialist Exacom IT software (£8,200 per annum) and a proportion of the staff resources required to administer the collection and monitoring of CIL. Current projections in the Infrastructure Business Plan anticipate the receipt of approximately £122,000 in the first three years following the adoption of CIL which could be used for administration purposes. This appears capable of funding the Planning Officer (CIL and Infrastructure) post, together with the software maintenance cost. This matter will be kept under review.
- 8.2. Following adoption, a statutory notice will be placed on the Council's website and in the Chichester Observer providing information about the date on which the CIL Charging Schedule takes effect, and where the CIL Charging Schedule and associated documents can be examined.
- 8.3. The CIL Examiner's report is binding and cannot be changed. This means the District Council must accept the recommendations contained in the report if it wishes to continue to adopt the CIL charging schedule.

9. Consultation

9.1. The CIL Charging Schedule was subject to two statutory public consultation stages. All consultation responses and information relating to the Examination have been published on the Council's website.

10. Community impact and corporate risks

10.1. The adoption of this CIL Charging Schedule will contribute to the cost of funding infrastructure to support the amount of development identified in the Local Plan, and as prioritised in the Council's draft Infrastructure Business Plan, which will benefit the wider community.

11. Other Implications

Crime & Disorder:	None
Climate Change:	None
Human Rights and Equality Impact:	None
Safeguarding:	None

12. Appendices

- 12.1. Appendix 1 – CIL Examiner's Report
- 12.2. Appendix 2 – CIL Charging Schedule
- 12.3. Appendix 3 – CIL Regulation 123 list
- 12.4. Appendix 4 – CIL Payment by Instalments Policy

13. Background Papers

None